

REMARKS

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

RECEIVED
CENTRAL FAX CENTER
OCT 24 2006

The Examiner is respectfully thanked for the consideration provided to this application. Reconsideration of this application is respectfully requested in light of the following remarks.

Claims 1-33 are now pending in this application. Each of claims 1, 14, and 15 are in independent form.

I. The Indefiniteness Rejections

Each of claims 1-33 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. These rejections are respectfully traversed.

Regarding indefiniteness rejections, the Federal Circuit has held that the law is clear that if the claims, read in light of the specification, reasonably apprise those skilled in the art of the use and scope of the invention, and if the language is as precise as the subject matter permits, the claims are definite under Section 112, second paragraph. *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 USPQ 634 (Fed. Cir. 1985), cert. dismissed, 474 U.S. 976 (1985).

The present Office Action asserts, at Page 1:

[t]hese claims recite conditional language "if without sufficiently providing one of ordinary skill instructions for proceeding in the event at least one of the "if" conditions fail, i.e., the claims are silent regarding what will be done (as "the 'if not' occurs"), hence giving the claims their broadest reasonable interpretation, i.e., they have been examined as if "the 'if not' occurs", and a reasonable alternative is ("do nothing", or perform the next steps).

Applicants respectfully submit that no evidence has been presented that any of claims 1-33, when "read in light of the specification," do not "reasonably apprise those skilled in the art of the use and scope of the invention." Thus, no *prima facie* case has been made that claims 1-33 are indefinite. Accordingly Applicants respectfully request reconsideration and withdrawal of the rejections of claims 1-33.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

II. The Obviousness Rejections

Each of claims 1-33 was rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of U.S. Patent No. 5,819,234 ("Slavin"), U.S. Patent No. 6,856,820 ("Kolls"), U.S. Patent No. 6,339,384 ("Valdes-Rodriguez"), U.S. Patent No. 7,044,622 ("Marshall"), and/or U.S. Patent No. 5,101,200 ("Swett"). Each of these rejections is respectfully traversed.

A. Legal Standards

1. *Prima Facie* Criteria for an Obviousness Rejection

Over 50 years ago, in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), the Supreme Court established factors regarding the factual inquiry required to establish obviousness. The factors include:

1. determining the scope and contents of the prior art;
2. ascertaining differences between the prior art and the claims at issue;
3. resolving the level of ordinary skill in the pertinent art; and
4. considering objective evidence indicating obviousness or nonobviousness.

The Federal Circuit has applied *Graham*'s required factual inquiry in numerous legal precedents that are binding on the USPTO.

It is recognized that most patentable inventions arise from a combination of old elements and often, each element is found in the prior art. *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998). However, mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole. *Id.* at 1355, 1357.

Instead, "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach... all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP 2143.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

Moreover, the "Patent Office has the initial duty of supplying the factual basis for its rejection." *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057, *reh'g denied*, 390 U.S. 1000 (1968). "It may not... resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis". *Id.*

It is legal error to "substitute[] supposed *per se* rules for the particularized inquiry required by section 103. It necessarily produces erroneous results." *See, In re Ochiai*, 71 F.3d 1565, 1571, 37 USPQ2d 1127, 1132-33 (Fed. Cir. 1998); *In re Wright*, 343 F.2d 761, 769-770, 145 USPQ 182, 190 (CCPA 1965).

"Once the examiner... carries the burden of making out a *prima facie* case of unpatentability, 'the burden of coming forward with evidence or argument shifts to the applicant.'" *In re Alton*, 76 F.3d 1168, 37 USPQ2d 1578 (Fed. Cir. 1996) (*quoting In re Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444).

2. Unfounded Assertions of Knowledge

A bald assertion of knowledge generally available to one of ordinary skill in the art to bridge the evidentiary gap is improper. Such unfounded assertions are not permissible substitutes for evidence. *See In re Lee*, 277 F.3d 1338, 1435, 61 USPQ2d 1430, 1435 (Fed. Cir. 2002). That is, deficiencies of the cited references can not be remedied by general conclusions about what is basic knowledge or common sense to one of ordinary skill in the art. *In re Zurko*, 258 F.3d 1379, 1385-86 (Fed. Cir. 2001).

3. Pertinent Prior Art References

The *Graham* analysis requires that, to rely on a prior art reference as a basis for a rejection, the USPTO must show that the reference is "reasonably pertinent to the particular problem with which the invention was involved." *Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 664, 57 USPQ2d 1161, 1166 (Fed. Cir. 2000); *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1535, 218 USPQ 871, 876 (Fed. Cir. 1983); *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992); *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006).

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

“References are selected as being reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art.” *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006) (“[I]t is necessary to consider ‘the reality of the circumstances,’—in other words, common sense—in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor” (*quoting In re Wood*, 599 F.2d 1032, 1036 (C.C.P.A. 1979))).

“If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem, and that fact supports use of that reference in an obviousness rejection. An inventor may well have been motivated to consider the reference when making his invention. If it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it.” *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006) (*citing In re Clay*, 966 F.2d 656, 659-60 (Fed. Cir. 1992)).

Yet “[d]efining the problem in terms of its solution reveals improper hindsight in the selection of the prior art relevant to obviousness.” *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006) (*quoting Ecolochem, Inc. v. S. Cal. Edison Co.*, 227 F.3d 1361, 1372 (Fed. Cir. 2000)).

4. Motivation or Suggestion to Combine References

Under the *Graham* analysis, the “examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” *See*, MPEP 2142. The requirements for meeting this burden are clear.

To factually support a *prima facie* conclusion of obviousness, an Office Action must clearly and objectively prove “the reasons one of ordinary skill in the art would have been motivated to select the references”. *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998); *In re Johnston*, 435 F.3d 1381 (Fed. Cir. 2006).

Further, “the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed” (emphasis added). *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998); *In re Sang-Su Lee*, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

To show these reasons, “[p]articular findings must be made”. *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). Such factual findings must be supported by “concrete evidence in the record”. *In re Zurko*, 258 F.3d 1379, 1385-86, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

Moreover, a showing of combinability must be “clear and particular”. *In re Dembiczkak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 161(Fed. Cir. 1999). That strong showing is needed because, “obviousness requires proof ‘that the skilled artisan . . . would select the elements from the cited prior art references for combination in the manner claimed’”. *In re Johnston*, 435 F.3d 1381 (Fed. Cir. 2006) (quotation omitted) (emphasis added).

Thus, the Office Action must clearly, particularly, and objectively prove some “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

- “select the references”;
- “select the teachings of [the] separate references”; and
- “combine [those teachings] in the way that would produce the claimed” subject matter.

In re Johnston, 435 F.3d 1381 (Fed. Cir. 2006) (internal citations omitted). *See also, In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998) (discussing “the test of whether it would have been obvious to select specific teachings and combine them as did the applicant”) (emphasis added); and *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) (“When prior art references require selective combination... to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.”). “The absence of . . . a suggestion to combine is dispositive in an obviousness determination.” *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573, 1579, 42 USPQ2d 1378, 1383 (Fed. Cir. 1997).

Further, these requirements apply regardless of whether the Office Action relies upon modifying or combining purported teachings.

Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

modification of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.... It is impermissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

In re Fritch, 972 F.2d 1260, 23 USPQ 2d 1780, 1783-1784 (Fed. Cir. 1992) (*citing In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985); and *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (internal quotations omitted) (emphasis added)).

5. Reasonable Expectation of Success

“[I]f all the elements of [a claim] are found in a combination of prior art references”, “a proper analysis under § 103 requires, *inter alia*, consideration of ... whether the prior art would also have revealed that in so making or carrying out, those of ordinary skill would have a reasonable expectation of success” *Medichem, S.A. v. Rolabo, S.L.* (Fed. Cir. February 3, 2006) (*quoting Velander v. Garner*, 348 F.3d 1359, 1363 (Fed. Cir. 2003) (*citing Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966))).

“[T]o have a reasonable expectation of success, one must be motivated to do more than merely to ‘vary all parameters or try each of numerous possible choices until one possibly arrived at a successful result, where the prior art gave either no indication of which parameters were critical or no direction as to which of many possible choices is likely to be successful.’” *Medichem, S.A. v. Rolabo, S.L.* (Fed. Cir. February 3, 2006) (*quoting In re O’Farrell*, 853 F.2d 894, 903 (Fed. Cir. 1988)). ”Similarly, prior art fails to provide the requisite ‘reasonable expectation’ of success where it teaches merely to pursue a ‘general approach that seemed to be a

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

promising field of experimentation, where the prior art gave only general guidance as to the particular form of the claimed invention or how to achieve it.”” *Id.*

6. Next Office Action

If an Office Action fails to set forth sufficient facts to provide a *prima facie* basis for the rejections, any future rejection based on the applied reference will necessarily be factually based on an entirely different portion of that reference, and thus will be legally defined as a “new grounds of rejection.” Consequently, any Office Action containing such rejection can not properly be made final. *See In re Wiechert*, 152 USPQ 247, 251-52 (CCPA 1967) (defining “new ground of rejection” and requiring that “when a rejection is factually based on an entirely different portion of an existing reference the appellant should be afforded an opportunity to make a showing of unobviousness vis-a-vis such portion of the reference”), and *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (CCPA 1967) (the USPTO “has the initial duty of supplying the factual basis for its rejection”).

B. Analysis

1. Claim 1

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

Instead, regarding selected proffered combinations, the present Office Action states, at Pages 2-4:

1. "it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a non-telephonic wireless transmitter/transponder as disclosed by Slavin et al. to include the aspect of a signal is from a **vehicle-powered** non-telephonic wireless transmitter/transponder, as suggested by Kolls et al. to utilize a secure, uninterrupted, long-lasting power connection to the vehicle's battery";
2. "it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a **vehicle-powered** non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. to include the aspect of an **encrypted** unique identifier in the transmitted signal as taught by Valdes-Rodriguez to ensure secrecy of information or data during transmission"; and
3. "it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a **vehicle-powered** non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. further in view of Valdes-Rodriguez to include the aspect of the signal transmitted responsive to '**a predetermined input from a user** {claim 1}, **wherein such an input comprises a predetermined number of headlight high beam switch activations within a predetermined time interval**' {claim 6} as suggested by Marshall to activate a transmitter and get it ready to transmit signal/data to a receiver."

Applicant respectfully submits that none of these unsupported assertions provide any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Thus, the Office Action fails to present the required proof of obviousness.

c. Marshall is Not Pertinent Art to the Claimed Subject Matter

Marshall allegedly asserts, at the Abstract:

[a]n illumination tool for projecting a light beam through a transparent structure that has a portion of the tool detachably securable via a vacuum seal mechanism that engages the transparent structure. A lighting mechanism is electrically attached to the illumination tool and is positioned in contact with the transparent structure via a soft seal positioned about the lighting mechanism. The lighting mechanism may, if desired, be manually activated and deactivated i.e., the illumination tool turned on or off. If desired, the illumination tool may be remotely operated by a user depressing a remote operating switch and a radio signal is communicated to the illumination tool. The remote actuator may also be hardwire connected to the illumination tool. Further, if desired the lighting mechanism may be illuminated via strobe light, a continuous or flashing beam of light.

Thus, Marshall relates to an "illumination tool".

By contrast, claim 1 recites "receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier."

One skilled in the art at the time of the invention would not have found an "illumination tool" to be in the same field of endeavor as "receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier."

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

Likewise, one skilled would not find "illumination tool" to be "reasonably pertinent to the particular problem with which the inventor was involved" in "receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier."

Further, because they are directed at vastly different problems, one of skill in the art would not consider Marshall to be pertinent art to that of Slavin, Kolls, and/or Valdes-Rodriguez.

Thus, Marshall is not pertinent to the present Application and is therefore not available as a reference for combination with Slavin, Kolls, and/or Valdes-Rodriguez.

d. Reasonable Expectation of Success

The Final Office Action attempts to, impermissibly, combine portions of Slavin, Kolls, Valdes-Rodriguez, and Marshall in rejecting the claimed subject matter.

Applicant respectfully reiterates that Marshall is allegedly directed to an "illumination tool".

By contrast, Slavin is allegedly directed toward an "**automatic toll collection system.**"

See Abstract.

In further contrast, Kolls' Abstract allegedly recites an "**in-vehicle device data communicates with Internet based data processing resources** for the purpose of transacting e-mail, e-commerce, and e-business."

Further, Valdes-Rodriguez allegedly states, at the Abstract, "**device for automatically paying a toll for a vehicle passing through a toll booth.**"

The Final Office Action presents no evidence that one having ordinary skill in the art would have had any expectation of success, let alone a reasonable expectation of success, in combining the applied portions of the relied upon references. At most, the applied portions of the relied upon references provide "only general guidance as to the particular form of the claimed invention or how to achieve it."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if the applied portions of the references relied upon in the Office Action, as

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

attempted to be modified and/or combined by the Office Action, expressly or inherently teach or suggest every limitation of claim 1 (another assumption that is respectfully traversed), there is still no evidence indicating a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action, and consequently, the Office Action fails to establish a *prima facie* case of obviousness.

e. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 1. Applicant also respectfully requests a withdrawal of each of claims 2-13, each ultimately depending from claim 1.

2. Claim 2

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 2 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents no proof, and notably no evidence whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents no proof, and indeed no evidence, of anything "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 2.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 2.

3. Claim 3

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 3 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof**, and notably **no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof**, and indeed **no evidence**, of anything "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 3.

Thus, the Office Action fails to present the required **proof** of obviousness.

PATENT**Application # 10/563,187**

Attorney Docket # 1043-005

**RECEIVED
CENTRAL FAX CENTER
OCT 24 2006****c. Conclusion**

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 3.

4. Claim 4**a. Prima Facie Criteria**

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 4 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. Missing Claim Limitation

Claim 4 recites, *inter alia*, yet the applied portions of Slavin fail to teach, "providing an acknowledgment of fulfillment of the proposed transaction to the transmitter." Instead, the applied portion of Slavin allegedly recites, at col. 9 lines 59-63:

[d]epending on the result of the test at decisional block 200, the toll charge is approved and a green light 34 or the like is activated to indicate a valid toll charging transaction and to signal the motorist (or toll enforcement officials) accordingly.

Applicant respectfully submits that this applied portion of Slavin does not teach, "providing an acknowledgment of fulfillment of the proposed transaction to the transmitter."

The applied portions of the other applied references fail to cure at least these deficiencies of the applied portions of Slavin.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

attempted to be modified and/or combined, still do not expressly or inherently teach **every** limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

c. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever**, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 4.

Thus, the Office Action fails to present the required **proof of obviousness**.

d. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 4.

5. Claim 5

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 5

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 5.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 5.

6. Claim 6

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 6 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

PATENT

Application # 10/563,187

Attorney Docket # 1043-005

RECEIVED
CENTRAL FAX CENTER

OCT 24 2006

b. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 6.

7. Claim 7**a. *Prima Facie* Criteria**

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 7 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":**

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."**

Instead, regarding selected proffered combinations, the present Office Action states, at Page 8:

it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a vehicle-powered non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. in view of Valdes-Rodriguez and further in view of Marshall to include the aspect of '*requesting and receiving (i.e., inputting), respectively, a PIN*

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

from the user' as suggested by Swett to confirm the user's identity to a system from which the user requesting approval of the proposed transaction.

Applicant respectfully submits that this unsupported assertion fails to provide any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 7.

8. Claim 8

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 8 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof**, and notably **no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

Instead, regarding selected proffered combinations, the present Office Action states, at Page 8:

it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a vehicle-powered non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. in view of Valdes-Rodriguez and further in view of Marshall to include the aspect of '*requesting and receiving (i.e., inputting), respectively, a PIN from the user*' as suggested by Swett to confirm the user's identity to a system from which the user requesting approval of the proposed transaction.

Applicant respectfully submits that this unsupported assertion fails to provide any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 8.

PATENT**Application # 10/563,187**

Attorney Docket # 1043-005

**RECEIVED
CENTRAL FAX CENTER****OCT 24 2006****9. Claim 9****a. Prima Facie Criteria**

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 9 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the **combination**."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 9.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 9.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

10. Claim 10

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 10 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 10.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 10.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

11. Claim 11

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 11 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 11.

Thus, the Office Action fails to present the required proof of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 11.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

12. Claim 12

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 12 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 12.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 12.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

13. Claim 13

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 13 depends from claim 1, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 1.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 13.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 13.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

14. Claim 14

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever**, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

Instead, regarding selected proffered combinations, the present Office Action states, at Pages 2-4:

1. “it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a non-telephonic wireless transmitter/transponder as disclosed by Slavin et al. to include the aspect of a signal is from a *vehicle-powered* non-telephonic wireless transmitter/transponder, as suggested by Kolls et al. to utilize a secure, uninterrupted, long-lasting power connection to the vehicle’s battery”;
2. “it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a *vehicle-powered* non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. to include the aspect of an *encrypted*

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

- unique identifier in the transmitted signal as taught by Valdes-Rodriguez to ensure secrecy of information or data during transmission"; and
3. "it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a **vehicle-powered** non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. further in view of Valdes-Rodriguez to include the aspect of the signal transmitted responsive to '**a predetermined input from a user** {claim 1}, **wherein such an input comprises a predetermined number of headlight high beam switch activations within a predetermined time interval**' {claim 6} as suggested by Marshall to activate a transmitter and get it ready to transmit signal/data to a receiver."

Applicant respectfully submits that none of these unsupported assertions provide any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Thus, the Office Action fails to present the required proof of obviousness.

c. Marshall is Not Pertinent Art to the Claimed Subject Matter

Marshall allegedly asserts, at the Abstract:

[a]n illumination tool for projecting a light beam through a transparent structure that has a portion of the tool detachably securable via a vacuum seal mechanism that engages the transparent structure. A lighting mechanism is electrically attached to the illumination tool and is positioned in contact with the transparent structure via a soft seal positioned about the lighting mechanism. The lighting mechanism may, if desired, be manually activated and deactivated i.e., the illumination tool turned on or off. If desired, the illumination tool may be

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

remotely operated by a user depressing a remote operating switch and a radio signal is communicated to the illumination tool. The remote actuator may also be hardwire connected to the illumination tool. Further, if desired the lighting mechanism may be illuminated via strobe light, a continuous or flashing beam of light.

Thus, Marshall relates to an "illumination tool".

By contrast, claim 14 recites "an approval processor adapted to receive an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier."

One skilled in the art at the time of the invention would not have found an "illumination tool" to be in the same field of endeavor as "receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier."

Likewise, one skilled would not find "illumination tool" to be "reasonably pertinent to the particular problem with which the inventor was involved" in "receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier."

Further, because they are directed at vastly different problems, one of skill in the art would not consider Marshall to be pertinent art to that of Slavin, Kolls, and/or Valdes-Rodriguez.

Thus, Marshall is not pertinent art to the present Application and is therefore not available as a reference for combination with Slavin, Kolls, and/or Valdes-Rodriguez.

d. Reasonable Expectation of Success

The Final Office Action attempts to, impermissibly, combine portions of Slavin, Kolls, Valdes-Rodriguez, and Marshall in rejecting the claimed subject matter.

Applicant respectfully reiterates that Marshall is allegedly directed to an "illumination tool".

By contrast, Slavin is allegedly directed toward an "automatic toll collection system."

See Abstract.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

In further contrast, Kolls' Abstract allegedly recites an "**in-vehicle device data communicates with Internet based data processing resources** for the purpose of transacting e-mail, e-commerce, and e-business."

Further, Valdes-Rodriguez allegedly states, at the Abstract, "device for **automatically paying a toll for a vehicle passing through a toll booth.**"

The Final Office Action presents no evidence that one having ordinary skill in the art would have had any expectation of success, let alone a reasonable expectation of success, in combining the applied portions of the relied upon references. At most, the applied portions of the relied upon references provide "only general guidance as to the particular form of the claimed invention or how to achieve it."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined by the Office Action, expressly or inherently teach or suggest every limitation of claim 1 (another assumption that is respectfully traversed), there is still no evidence indicating a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action, and consequently, the Office Action fails to establish a *prima facie* case of obviousness.

e. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 14.

15. Claim 15

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

Instead, regarding selected proffered combinations, the present Office Action states, at Pages 2-4:

1. “it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a non-telephonic wireless transmitter/transponder as disclosed by Slavin et al. to include the aspect of a signal is from a *vehicle-powered* non-telephonic wireless transmitter/transponder, as suggested by Kolls et al. to utilize a secure, uninterrupted, long-lasting power connection to the vehicle’s battery”;
2. “it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a *vehicle-powered* non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. to include the aspect of an *encrypted* unique identifier in the transmitted signal as taught by Valdes-Rodriguez to ensure secrecy of information or data during transmission”; and
3. “it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a *vehicle-powered* non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. further in view of Valdes-Rodriguez to

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

include the aspect of the signal transmitted responsive to ‘*a predetermined input from a user* {claim 1}, *wherein such an input comprises a predetermined number of headlight high beam switch activations within a predetermined time interval*’ {claim 6} as suggested by Marshall to activate a transmitter and get it ready to transmit signal/data to a receiver.”

Applicant respectfully submits that none of these unsupported assertions provide any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Thus, the Office Action fails to present the required proof of obviousness.

c. Marshall is Not Pertinent Art to the Claimed Subject Matter

Marshall allegedly asserts, at the Abstract:

[a]n illumination tool for projecting a light beam through a transparent structure that has a portion of the tool detachably securable via a vacuum seal mechanism that engages the transparent structure. A lighting mechanism is electrically attached to the illumination tool and is positioned in contact with the transparent structure via a soft seal positioned about the lighting mechanism. The lighting mechanism may, if desired, be manually activated and deactivated i.e., the illumination tool turned on or off. If desired, the illumination tool may be remotely operated by a user depressing a remote operating switch and a radio signal is communicated to the illumination tool. The remote actuator may also be hardwire connected to the illumination tool. Further, if desired the lighting mechanism may be illuminated via strobe light, a continuous or flashing beam of light.

Thus, Marshall relates to an “illumination tool”.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

By contrast, claim 15 recites “receiving information originating from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, the information comprising an encrypted unique identifier, the encrypted unique identifier not comprising a financial account number or a user-provided PIN, the information provided from the wireless transmitter responsive to a predetermined input from a user, the information requesting approval of a proposed transaction.”

One skilled in the art at the time of the invention would not have found an “illumination tool” to be in the same field of endeavor as “receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier.”

Likewise, one skilled would not find “illumination tool” to be “reasonably pertinent to the particular problem with which the inventor was involved” in “receiving an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier.”

Further, because they are directed at vastly different problems, one of skill in the art would not consider Marshall to be pertinent art to that of Slavin, Kolls, and/or Valdes-Rodriguez.

Thus, Marshall is not pertinent art to the present Application and is therefore not available as a reference for combination with Slavin, Kolls, and/or Valdes-Rodriguez.

d. Reasonable Expectation of Success

The Final Office Action attempts to, impermissibly, combine portions of Slavin, Kolls, Valdes-Rodriguez, and Marshall in rejecting the claimed subject matter.

Applicant respectfully reiterates that Marshall is allegedly directed to an “illumlnation tool”.

By contrast, Slavin is allegedly directed toward an “automatic toll collection system.”

See Abstract.

In further contrast, Kolls’ Abstract allegedly recites an “in-vehicle device data communicates with Internet based data processing resources for the purpose of transacting e-mail, e-commerce, and e-business.”

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

Further, Valdes-Rodriguez allegedly states, at the Abstract, "device for automatically paying a toll for a vehicle passing through a toll booth."

The Final Office Action presents no evidence that one having ordinary skill in the art would have had any expectation of success, let alone a reasonable expectation of success, in combining the applied portions of the relied upon references. At most, the applied portions of the relied upon references provide "only general guidance as to the particular form of the claimed invention or how to achieve it."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined by the Office Action, expressly or inherently teach or suggest every limitation of claim 1 (another assumption that is respectfully traversed), there is still no evidence indicating a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action, and consequently, the Office Action fails to establish a *prima facie* case of obviousness.

e. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 15. Applicant also respectfully requests a withdrawal of each of claims 16-33, each ultimately depending from claim 15.

16. Claim 16

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 16 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 16.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 16.

17. Claim 17

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 17 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 17.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 17.

18. Claim 18

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 18 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 18.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 18.

19. Claim 19

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 19 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 19.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 19.

20. Claim 20

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 20 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 20.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 20.

21. Claim 21

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 21 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

b. Missing Claim Limitation

Claim 21 recites, *inter alia*, yet the applied portions of Slavin fail to teach, “transmitting a rejection of the proposed transaction **if the proposed transaction exceeds a predetermined amount.**” Instead, the applied portion of Slavin allegedly recites, at col. 10, lines 5-13:

[i]f the toll plaza computer detects an invalid tag or a negative balance during an attempt to charge a toll amount, a red light 34 could be flashed or an alarm can be sounded as indicated by software block 206. Moreover, the video camera 37 which is normally operated at the toll plaza can be used to store images of the plate number and other vehicle data as indicated in block 208 and a violation enforcement procedure may be initiated (see block 210) when and if the toll plaza is equipped to do so.

Applicant respectfully asks, where does this applied portion of Slavin teach any “predetermined amount”? Applicant respectfully submits that this applied portion of Slavin does not teach, “transmitting a rejection of the proposed transaction **if the proposed transaction exceeds a predetermined amount.**”

The applied portions of the other applied references fail to cure at least these deficiencies of the applied portions of Slavin.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as **attempted to be modified and/or combined**, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

c. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 21.

Thus, the Office Action fails to present the required **proof of obviousness**.

d. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 21.

22. Claim 22

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 22 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. Missing Claim Limitation

Claim 22 recites, *inter alia*, yet the applied portions of Slavin fail to teach, “transmitting a rejection of the proposed transaction if a total amount associated with one or more transactions

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

exceeds a predetermined amount." Instead, the applied portion of Slavin allegedly recites, at col. 10, lines 5-13:

[i]f the toll plaza computer detects an invalid tag or a negative balance during an attempt to charge a toll amount, a red light 34 could be flashed or an alarm can be sounded as indicated by software block 206. Moreover, the video camera 37 which is normally operated at the toll plaza can be used to store images of the plate number and other vehicle data as indicated in block 208 and a violation enforcement procedure may be initiated (see block 210) when and if the toll plaza is equipped to do so.

Applicant respectfully asks, where does this applied portion of Slavin teach any "predetermined amount"? Applicant respectfully submits that this applied portion of Slavin does not teach, "transmitting a rejection of the proposed transaction if a total amount associated with one or more transactions exceeds a predetermined amount."

The applied portions of the other applied references fail to cure at least these deficiencies of the applied portions of Slavin.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

c. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents no proof, and notably no evidence whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 22.

Thus, the Office Action fails to present the required **proof** of obviousness.

d. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 22.

23. Claim 23

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 23 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. Missing Claim Limitation

Claim 23 recites, *inter alia*, yet the applied portions of Slavin fail to teach, "**transmitting a rejection of the proposed transaction if the proposed transaction exceeds a predetermined amount for a predetermined counter-party.**" Instead, the applied portion of Slavin allegedly recites, at col. 10, lines 5-13:

[i]f the toll plaza computer detects an invalid tag or a negative balance during an attempt to charge a toll amount, a red light 34 could be flashed or an alarm can be

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

sounded as indicated by software block 206. Moreover, the video camera 37 which is normally operated at the toll plaza can be used to store images of the plate number and other vehicle data as indicated in block 208 and a violation enforcement procedure may be initiated (see block 210) when and if the toll plaza is equipped to do so.

Applicant respectfully asks, where does this applied portion of Slavin teach any “predetermined amount”? Applicant respectfully submits that this applied portion of Slavin does not teach, “transmitting a rejection of the proposed transaction if the proposed transaction exceeds a predetermined amount for a predetermined counter-party.”

The applied portions of the other applied references fail to cure at least these deficiencies of the applied portions of Slavin.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

c. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 23.

Thus, the Office Action fails to present the required **proof** of obviousness.

d. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 23.

24. Claim 24

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 24 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. Missing Claim Limitation

Claim 24 recites, *inter alia*, yet the applied portions of Slavin fail to teach, "transmitting a rejection of the proposed transaction if the proposed transaction exceeds a predetermined amount for a predetermined time interval for a predetermined counter-party." Instead, the applied portion of Slavin allegedly recites, at col. 10, lines 5-13:

[i]f the toll plaza computer detects an invalid tag or a negative balance during an attempt to charge a toll amount, a red light 34 could be flashed or an alarm can be sounded as indicated by software block 206. Moreover, the video camera 37 which is normally operated at the toll plaza can be used to store images of the plate number and other vehicle data as indicated in block 208 and a violation

PATENT**Application # 10/563,187**

Attorney Docket # 1043-005

enforcement procedure may be initiated (see block 210) when and if the toll plaza is equipped to do so.

Applicant respectfully asks, where does this applied portion of Slavin teach any “predetermined amount” or a “predetermined time interval”? Applicant respectfully submits that this applied portion of Slavin does not teach, “transmitting a rejection of the proposed transaction if the proposed transaction exceeds a **predetermined amount for a predetermined time interval for a predetermined counter-party.**”

The applied portions of the other applied references fail to cure at least these deficiencies of the applied portions of Slavin.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as **attempted to be modified and/or combined**, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

c. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 24.

Thus, the Office Action fails to present the required **proof of obviousness**.

d. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 24.

25. Claim 25

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 25 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to"**:

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 25.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 25.

26. Claim 26

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 26 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof**, and notably **no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof**, and indeed **no evidence**, of anything "in the prior art as a whole to suggest the **desirability**, and thus the obviousness, of making the **combination**."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 26.

Thus, the Office Action fails to present the required **proof** of obviousness.

PATENT

Application # 10/563,187

Attorney Docket # 1043-005

RECEIVED
CENTRAL FAX CENTER

OCT 24 2006

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 26.

27. Claim 27**a. Prima Facie Criteria**

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 27 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 27.

Thus, the Office Action fails to present the required **proof** of obviousness.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 27.

28. Claim 28

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 28 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 28.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 28.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

29. Claim 29

a. *Prima Facie* Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 29 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 29.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 29.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

30. Claim 30

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 30 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:**

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”**

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 30.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 30.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

31. Claim 31

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 31 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents no proof, and notably no evidence whatsoever, of any “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

1. “select the references”;
2. “select the teachings of [the] separate references”; or
3. “combine [those teachings] in the way that would produce the claimed” subject matter.

Moreover, the present Office Action presents no proof, and indeed no evidence, of anything “in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.”

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 31.

Thus, the Office Action fails to present the required proof of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 31.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

32. Claim 32

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 32 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 32.

Thus, the Office Action fails to present the required **proof of obviousness**.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 32.

PATENT
Application # 10/563,187
Attorney Docket # 1043-005

33. Claim 33

a. Prima Facie Criteria

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 33 depends from claim 15, Applicant respectfully incorporates by reference herein each argument presented traversing the rejection of claim 15.

b. No Motivation or Suggestion to Combine the Applied References

The present Office Action presents **no proof, and notably no evidence** whatsoever, of any "suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to":

1. "select the references";
2. "select the teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject matter.

Moreover, the present Office Action presents **no proof, and indeed no evidence, of anything** "in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination."

The present Office Action fails to provide any suggestion or motivation to combine the applied portions of the relied upon references to arrive at the claimed subject matter of claim 33.

Thus, the Office Action fails to present the required **proof** of obviousness.

c. Conclusion

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claim 33.

To: 571-273-8300

From: Eden at MichaelHaynes.com

Pg 57/57 10/24/06 3:36 pm

PATENT

Application # 10/563,187

Attorney Docket # 1043-005

**RECEIVED
CENTRAL FAX CENTER**

OCT 24 2006

CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC

Michael N. Haynes

Michael N. Haynes
Registration No. 40,014

Date: 24 October 2006

1341 Huntersfield Close
Keswick, VA 22947
Telephone: 434-972-9988
Facsimile: 815-550-8850